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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]	Application Number	Filed
	10/728,222	NOV-27-2003

on __FEB 3 2008__

Signature _____

Typed or printed name   **KHAI HEE KWAN**

First Named Inventor
KHAI HEE KWAN

Art Unit	Examiner
3694	Shahid R. Merchant

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).
   Note: No more than five (5) pages may be provided.

I am the

[X] applicant/inventor.

[ ] assignee of record of the entire interest.
     See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
     (Form PTO/SB/96)

[ ] attorney or agent of record.
     Registration number _____

[ ] attorney or agent acting under 37 CFR 1.34.

     Registration number if acting under 37 CFR 1.34 _____

Signature

KHAI HEE KWAN
Typed or printed name

60-89-213117
Telephone number

FEB 3 2008
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.
Submit multiple forms if more than one signature is required, see below*.

[X] *Total of ___1___ forms are submitted.   **and 3 pages of attachment**

Applicant: Khai Hee Kwan   **Examiner:** Shahid R. Merchant.
Title: Method, apparatus and program for user to determine the
ownership cost of a motor vehicle.

<u>PRE-APPEAL BRIEF CONFERENCE</u>
RESPONDING TO EXAMINER'S ADVISORY ACTION & COMMENTS FROM
INTERVIEW 1-FEB 2008

In Advisory Action under Heading 'Detailed Action' at para 1.

The examiner wrote that "Applicant argues that there is <u>no requirement</u> for identifying
who is sending the data as in claim 1." The examiner also stated that to practise the
invention, one must know where the data is coming from or who is sending the data. The
crux of the examiner's rejection appears to have misread 35 USC 112 (2). Claim 1 is
reproduced below for clarity and further reference.

*1. A method for determining vehicle option premium to purchase or sale a new vehicle
over a network connected to a central controller and a plurality of terminals, comprising
the steps :*

providing a vehicle manufacturer system linked to said network;

*receiving over said network at said central controller, vehicle pricing information
comprising first data representative of time to delivery of said new vehicle, a second data
representative of a delivery destination of said new vehicle and third data representative
of a price said user is willing to pay for said new vehicle;*

*calculating at said central controller the vehicle option premium based on said first data
and said third data;*

outputting the vehicle option premium to the user for decision over said network;

*upon acceptance by said user of said vehicle option premium at said central controller,
performing a payment transaction for said premium or a deposit over said network; and*

creating a vehicle option contract to lock in said third data.

The applicant respectfully submits that the specification already informed one skilled in
the art who is sending. The applicant also cited Raytheon Co v Roper Corp., 724 F.2d
951, 220 USPQ 592, 597 (Fed Cir 1992) which states that ….[T]he argument that claim
1 must include a limitation found in the specification is legally unsound". And this is
exactly what the examiner is asking the applicant to do by including such limitation.

It is clear that how the invention is practised can be different to what is being claimed
BUT as long as it is patently clear that one skilled in the art would know how to practise
it from reading the specification, then there is no indefiniteness.

Applicant: Khai Hee Kwan   **Examiner:** Shahid R. Merchant.
Title: Method, apparatus and program for user to determine the ownership cost of a motor vehicle.

The examiner did not show any reasoning how one skilled in the art would fail to practise this invention as claimed. In fact, the examiner argued that there are two possibilities where the data could have come from. Surely, by able to identify where these data came from would show that it is not indefinite.

The applicant provided examples to show that it does not require specifically identifying where the data comes from as seen in US Patent 7,325,253

1. A method for identifying consent to an electronic delivery of information, comprising the steps of: <u>receiving</u> the information; <u>receiving</u> destination data to electronically deliver the received information; based on the destination data, providing an electronic notification of an availability of the received information and an option to access the received information; <u>receiving</u> a first exercise of the option to access the received information; responsive to the exercise of the option, prompting a consent for an electronic delivery of the received information; <u>receiving</u> a second exercise of a granting or denial of the prompted consent; responsive to the exercised granting of the requested consent, providing an electronic access to the received information; <u>receiving</u> a third exercise of the provided electronic access to the received information; and responsive to the exercised electronic access to the received information, providing the received information.

and in US Patent 7,325,141 below:

1. A method of configuring an access recovery system for a computer system, the method comprising the steps of: a) challenging an authenticatee to supply reference responses to one or more challenges through said computer system; b) <u>receiving</u> said reference responses; c) challenging said authenticatee to supply a string of characters to said computer system, said string of characters to be used as a pass phrase; d) <u>receiving</u> said string of characters; e) deriving a first encryption key from said pass phrase; f) encrypting said reference responses using said first encryption key and saving resulting encrypted reference responses; g) deriving at least one second encryption key from said reference responses; h) encrypting said first encryption key using said at least one second encryption key and saving said resulting encrypted first encryption key.

As to para 3 of the same Advisory Action, the examiner considers that "booking fee" is inherently determined by calculated means. According to the reasoning by the examiner, it [booking fee] locks in the price of the vehicle as taught by Wall. It is clear that this reasoning fails to show that this booking fee is CALCULATED because claim 1 has this explicit limitation. How is a booking fee calculated ? Wall fails to teach that its booking fee is by way of calculation by simply suggesting it is 150 pound. The applicant submits there is no evidence of calculating and the convention is that a booking fee is merely an

Title: Method, apparatus and program for user to determine the ownership cost of a motor vehicle.

arbitrary fee depending on the willingness of the booker to pay and by the seller to accept. It is not a calculated process.

Furthermore, Wall fails to teach providing a linked network to vehicle manufacturer system.

As for Claim 5, 12

It appears the examiner is applying basic knowledge of one skilled in the art here. If this is judicial notice then it has to be articulated. The examiner states that the "booking fee" would be available to the consumer involved in the transaction. The applicant has no objection here BUT the claim here also states " …..accessible to ALL users". This means NOT only the consumer involved in the transaction but ALL others including those who are not involved in the transaction. Wall made no teaching on this account hence no prima facie.

Claims 6,13,19

The examiner seems to suggest that booking fee in Wall is by calculated means. Again, the applicant must respectfully asked for some reasoning to show that one skilled in the art of booking fee see a need to calculate this fee which is stated to be 150 pounds for every type of cars.

Claims 7,14,20

These claims relate to using vehicle option to <u>SALE</u> a vehicle by user. It is submitted that Wall teaches user to buy vehicle by placing a booking BUT not to sale one. No prima facie has been made as the examiner provided no apparent reasoning for modification. Therefore, these claims are allowable.

In summary, in so far as 103(a) rejection is concerned, it is clear that the examiner also failed to show the Graham factors (including the differences) and articulate the skill level of one skilled in the art sufficiently including any common sense necessary to show booking fee must be by calculating.

Yours truly,

Khai Kwan
(023336) Feb-3-2008